



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 23, 1997

Ms. Lan P. Nguyen  
Assistant City Attorney  
City of Houston  
Legal Department  
P.O. Box 1562  
Houston, Texas 77251

OR97-2364

Dear Ms. Nguyen:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 109780.

The City of Houston (the "city") received a request for "information and any record of malfunction and/or repair of the traffic signals located in the intersection of Elysian and the North Loop East Service Road on the following dates: October 18 - 25, 1996." You have submitted the information which you contend is responsive to the request. You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception and arguments you have raised and reviewed the submitted information.

Section 552.103(a) excepts from disclosure information relating to litigation to which the state is or may be a party. The city has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. The city must meet both prongs of this test for information to be excepted under section 552.103(a).

Based on the information submitted to this office, we conclude that the city reasonably anticipates litigation and the requested information relates to the litigation.

Therefore, the city may withhold the information under section 552.103(a) of the Government Code.<sup>1</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Sam Haddad". The signature is fluid and cursive, with the first name "Sam" being more prominent than the last name "Haddad".

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/rho

Ref.: ID# 109780

Enclosures: Submitted documents

cc: Ms. Claudia Zavaleta  
Law Offices of Alfred Flores, Jr. & Associates, P.C.  
802 Commerce Street, Suite 100  
Houston, Texas 77002  
(w/o enclosures)

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<sup>1</sup>We note that if the opposing parties in the anticipated litigation have seen or had access to any of the information at issue, there would be no justification for withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). In addition, the applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).